**THE HONOURABLE SRI JUSTICE C.V. RAMULU**

**WRIT PETITION NO.7574 OF 2006**

**DATED: 12-7-2007**

Between:

M/s. Arjun Investigation & Security Services Private Limited, rep. by its Managing Director, 50-49-1, T.P.T. Colony, Sithammadhara, Visakhapatnam.

.. Petitioner

and

The Assistant Commissioner of Labour, Circle-I & The Commissioner for Workmen's Compensation Act, Visakhapatnam and others.

.. Respondents

**THE HONOURABLE SRI JUSTICE C.V. RAMULU**

**WRIT PETITION NO.7574 OF 2006**

**ORDER:**

This writ petition is filed seeking a certiorari to call for the records pertaining to order, dated 21.01.2006, passed in W.C.M.P.No.35 of 2004 on the file of the 1st respondent and quash the same as arbitrary and illegal.

It appears, one Karanam Sanyasi Naidu, the son of respondents 2 and 3, was said to be engaged by the petitioner-company to work at 5th respondent factory as Security Guard and while working as such, he died of injuries alleged to have sustained in a quarrel, which arose between him and some lorry owners. A criminal case in that regard was also pending before the learned Additional Judl. First Class Magistrate, Chodavaram. When the respondents 2 to 4, who are the father, mother and sister respectively of the deceased, claimed compensation from the management, the management postponed the matter. Hence they had to file a claim petition under the provisions of Workmen's Compensation Act, 1923 (for short 'the Act') before the 1st respondent – the Commissioner Appointed Under Workmen's Compensation Act-cum-Assistant Commissioner of Labour, Circle I, Visakhapatnam, seeking compensation for the death of the deceased. But, as there was a delay of 458 days in filing the said claim petition, beyond the period of two years allowed under the statute, they filed W.C.M.P.No.35 of 2004 seeking condonation of the said delay.

The petitioner herein resisted the said petition by filing a counter.

After considering the arguments advanced on behalf of both parties, the 1st respondent allowed the application by condoning the delay of 458 days in filing the claim petition and taken the claim

petition on file as W.C.No.1 of 2006. Aggrieved by the same, the management preferred this writ petition.

Learned counsel for the petitioner Sri Rama Gopal strenuously contended that absolutely no sufficient cause was shown by the respondents 2 to 4 for condoning the abnormal delay of 458 days in filing the claim petition under the provisions of the Act seeking compensation, beyond the period of two years allowed under the statute. Thus, the 1st respondent erred in allowing the application and the impugned order is liable to be set aside.

On the other hand, learned counsel for the respondents 2 to 4 supported the order passed by the 1st respondent and contended that the respondents 2 to 4, being illiterate, were not knowing about the period of limitation for filing the claim petition. In fact, they demanded the petitioner for payment of compensation under the provisions of the Act, but the petitioner eventually postponed the matter. As such, there occurred a delay of 458 days in filing the claim petition and the same was rightly condoned by the 1st respondent.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material made available on record.

I am in complete agreement with the submissions made by the learned counsel for the respondents 2 to 4 supporting the order passed by the 1st respondent. In a case of this nature, where the applicants, who are seeking compensation on account of the death of their family member, are illiterates, condoning the delay of 458 days in filing a W.C. Case cannot be said to be either arbitrary or illegal. In the facts and circumstances of the case, I am of the opinion that the 1st

respondent has not committed any error in passing the impugned order allowing the application filed by the respondents 2 to 4 for condoning the delay of 458 days in filing the W.C. case. The writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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**C.V. RAMULU, J**

12th July, 2007.
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